

**STATE OF MICHIGAN**

**BEFORE THE JUDICIAL TENURE COMMISSION**

**IN THE MATTER OF:**

**MAG. JAMES P. CONRAD (P31343)**  
**37<sup>th</sup> District Court Magistrate**  
**8300 Common Road**  
**Warren, MI 48093**

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**RFI Nos.: 03-14898 and**  
**04-14969**

**SETTLEMENT AGREEMENT**

Magistrate James P. Conrad (“Respondent”), through his attorney, John E. McSorley, and the Examiner,<sup>1</sup> Paul J. Fischer, (collectively, “the parties”) stipulate as follows.

**A. PROCEDURAL MATTERS**

1. The parties stipulate that the stipulated facts (“Stipulated Facts”) contained in this Settlement Agreement shall be the sole factual basis for the Commission’s decision and recommendation in this matter. The Stipulated Facts are set forth in Section B, below.

2. The Commission is to use the Stipulated Facts in lieu of the master’s report set forth in MCR 9.214.

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<sup>1</sup> Although no formal complaint has been issued, the Judicial Tenure Commission’s executive director assumes the role of “examiner” for purposes of this proceeding, as he and the Respondent are in adversarial positions, and call upon the Commission in its adjudicatory role. *See* MCR 9.201(B)(F).

3. The parties agree to make a joint recommendation that the Commission's sanction recommendation be a public censure, with a 90-day period of suspension without pay. However, the Respondent is willing to accept a suspension as magistrate for a period as long as 180 days.

a. The parties acknowledge that Respondent receives one salary for all the services he provides to the 37<sup>th</sup> District Court, *i.e.*, he is not paid a separate salary or sum for the services he performs as magistrate of that court.

b. The parties agree that Respondent devotes 80% of his efforts at the 37<sup>th</sup> District Court as the court administrator and 20% of his efforts as the magistrate.

c. The parties further agree that the Court's fiscal office is not capable of reducing Respondent's salary by whatever amount or period that may be ordered.

d. Accordingly, the parties agree that Respondent shall repay the funding unit for the 37<sup>th</sup> District Court \$1,000.00 for each 30-day period of suspension ordered, or the corresponding *pro rata* amount if the period of suspension (if any) is not based on 30-day increments.

e. The parties agree that Respondent shall pay half of this amount at the mid-point of his suspension as a magistrate, and the balance upon the completion of the suspension.

f. Respondent acknowledges and agrees that he cannot return serve as a magistrate until he pays the full sum owed under this schedule to the funding unit. Respondent further acknowledges and agrees that failure to pay these sums within 24 hours of their being due may constitute grounds for further action by the Commission.

4. The recommendation for suspension without pay only affects Respondent's status as a judicial officer, and does not affect his administrative role at the court as the court administrator.

5. The Commission may take into consideration the needs of the 37<sup>th</sup> District Court in recommending that any period of suspension begin on a date certain so as to allow the court to make arrangements for proper cover of its adjudicatory obligations.

6. Respondent hereby knowingly, intentionally, and voluntarily waives his right to:

- a. a hearing before the Commission on the issues raised in this matter;
- b. a hearing before a Master on the issues raised in this matter;

- c. a Master's Report setting forth findings of fact and/or conclusions of law with respect to the issues raised;
- d. object to those findings before the Commission;
- e. a *de novo* review of the factual record by the Commission prior to the Commission's issuance of its Decision and Recommendation for Order of Discipline; and
- f. appear before the Commission and argue regarding the facts and/or potential sanction recommendation.

7. Respondent consents to a sanction of a public censure and a period of suspension without pay for a period of 180 days, as outlined above, and this document constitutes his consent to be disciplined pursuant to MCR 9.220(C).

8. If the Supreme Court imposes a discipline greater than public censure and a period of suspension without pay for a period of 181 days or more, Respondent has the right to withdraw his consent, pursuant to MCR 9.225. Respondent agrees, however, that the Stipulated Facts may be admitted against him in any subsequent proceedings in this matter before a master, the Commission, or the Court.

9. This Settlement Agreement shall remain confidential until the Commission releases its Decision and Recommendation in this matter. The

Commission may attach a copy of this Settlement Agreement to its Decision and Recommendation.

10. The Respondent asserts, and the Examiner does not dispute, that Respondent has enrolled in the alcohol counseling program administered through the 37<sup>th</sup> District Court entitled Choices Counseling Center. He agrees to remain in the program until being discharged from it.

11. Respondent agrees to provide the Commission with proof of his satisfactory completion of the program. Respondent further acknowledges and agrees that failure to provide such evidence may constitute grounds for further action by the Commission.

12. The parties agree that the Stipulated Facts are conclusive as to the matters stipulated.

13. Respondent may submit a personal statement on his behalf, no longer than 10 pages, and not contravening the terms of this Settlement Agreement.

## **B. THE STIPULATED FACTS**

1. Respondent is, and at all material times was, a magistrate of the 37<sup>th</sup> District Court for the city of Warren, Macomb County, Michigan.

2. As a magistrate, he is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

3. On October 4, 2003, two police officers observed Respondent driving at the intersection of Sherwood and Iowa in Detroit.

4. The officers effectuated a traffic stop based on a suspicion that Respondent was under the influence of alcohol.

5. After taking Respondent into custody, the police administered him two breathalyzer tests.

6. The results of each test established that Respondent's blood alcohol content was .21.

7. A blood alcohol content of .21 is over the legal limit for operating a motor vehicle in Michigan, and constitutes operating a vehicle under the influence of intoxicating liquor, under MCL 257.625.

8. Respondent is the defendant in *People v James P. Conrad*, 36<sup>th</sup> District Court Case No. 0526130, stemming from the events described above. He is charged with operating a motor vehicle under the influence of intoxicating liquor.

9. Five years earlier, on April 2, 1998, Respondent was driving on Gratiot in Roseville, Michigan in the early morning hours.

10. A state police trooper effectuated a traffic stop at approximately 2:45 a.m., under a suspicion that Respondent was driving under the influence of alcohol.

11. The Macomb County Sheriff department administered Respondent two breathalyzer tests after Respondent was taken into custody.

12. The results of each test established that Respondent's blood alcohol content was .20.

13. At the time, a blood alcohol content of .10 or higher was over the legal limit for operating a motor vehicle in Michigan, and constituted operating a vehicle under the influence of intoxicating liquor, under MCL 257.625.

14. Respondent admits that his conduct in both instances was wrong, and he deeply regrets any disgrace or embarrassment he has brought to the judiciary as a result.

### **C. CONCLUSIONS OF LAW**

1. The above facts constitute:

- (a) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;
- (b) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;

- (c) Conduct involving the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;
- (d) Failure to conduct oneself at all times in a manner which would enhance the public's confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B; and
- (e) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(A)(2).

Respectfully submitted,

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Paul J. Fischer (P35454)  
Executive Director and General Counsel,  
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DATED: \_\_\_\_\_

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James P. Conrad (P31343)